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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/997,368	12/23/1997	YASUO HIMURO	Q48849	1216

7590 07/29/2004  
SUGHRUE MION ZINN MACPEAK & SEAS  
2100 PENNSYLVANIA NW  
WASHINGTON, DC 200373202

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 08/997,368	Applicant(s) HIMURO, YASUO	
	Examiner Steven D. Maki	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1) A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4-27-04 has been entered.

2) Claims 2-9 are objected to because of the following informalities:

(a) The claim identifier for claims 2-6 should be --(currently amended)-- instead of "(original)".

(b) The claim identifier for claim 7 should be --(previously presented)-- instead of "(original)".

(b) The claim identifier for claims 8-9 should be --(currently amended)-- instead of "(previously presented)".

Appropriate correction is required.

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) **Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Europe '332 (EP 627332) in view of Europe '718 (EP 705718) and Japan '025 (JP 5-319025) and optionally either Europe '685 (EP 688685) or Japan '215 (JP 6-40215).**

Europe '332, Europe '718, Japan '025, Europe '685 and Japan '025 are applied as in the rejection set forth on pages 6-12 of the Examiner's Answer dated 6-29-00 and affirmed by the Board of Patent Appeals and Interferences in their decision dated 2-27-04.

With respect to the amended language of "the block formed in the central zone of the tread has at least two sipes, each opening to a steeply slant groove at a cross angle of not less than 45°", it would have been obvious to one of ordinary skill in the art to provide the block (a land portion) in the central zone of Europe '332 with at least two sipes (*instead of only one such sipe*), each opening to a steeply slant groove at a cross angle of not less than 45 degrees in view of (a) Europe '718's teaching to include sipes in blocks in a central zone of a tread to improve traction and optionally (b) the arrangement / orientation of sipes suggested by Europe '685 or Japan '025. Europe '718's figure 1 shows a land portion in the central zone as having three sipes. Europe '685's figure 6 shows block 12 in a central zone as having three sipes. Japan '215's figure 2 shows a land portion between steeply slant grooves as having two sipes. This conclusion is consistent with the Board's holding that "... like the Examiner, we conclude that it would have been obvious for an artisan to provide the central zone blocks of EP '332 with sipes for the reasons thoroughly expressed in the answer" (page 7 of Board

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decision dated 2-27-04). As to the "sipe" in the side zone, attention is again directed to Europe '322's teaching to include a "sipe" (portion 10a) in a block in a side zone.

#### **Allowable Subject Matter**

5) **Claims 2-10 would be allowable if claim 10 is amended to include the subject matter described at pages 8-9 and shown in figure 1 - figure 1 showing the arrangement and configuration of two sipes 6 formed in a block at the central zone.**

The amendment filed 4-27-04 fails to incorporate the allowable subject matter into claim 10; it being emphasized that the use of two sipes instead of one sipe was not the allowable subject matter. With respect to "the arrangement and configuration of two sipes 6 formed in a block at the central zone", the examiner provides the additional comments: The central block 3 in figure 1 contains two sipes 6 (each opening to a steeply slant groove at a cross angle of not less than 45 degrees) arranged and configured so as to divide the block 3 into three tread elements including an "arrow shaped first tread element" having "head portion" comprising the chamfered tapered top end and a "rear portion" separating the "second tread element" and the "third tread element". This arrangement and configuration permits the tapered top end to be chamfered without crossing the sipes and at the same time define an increasing number of "block elements" along the longitudinal direction of the block and toward the tread end. Although (a) Europe '718 and Japan '025 suggest chamfering a tapered end portion of Europe '332's central block, (b) at least Europe '718 suggests forming sipes in Europe '332's central block and (c) Europe '332 teaches increasing the number of

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blocks toward the tread end to reduce noise, the prior art of record fails to suggest or motivate forming the above mentioned two sipes 6 in Europe '332's central block while at the same time chamfering the tapered end portion.

Remarks

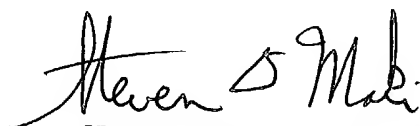
6) Applicant's arguments with respect to claims 2-10 have been considered but are moot in view of the new ground(s) of rejection.

7) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
July 24, 2004

  
STEVEN D. MAKI 7-24-04  
PRIMARY EXAMINER  
~~GROUP 1300~~  
AU 1733